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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/774,682
Filing Date: February 01, 2001
Appellant(s): ASANO ET AL.

Ronald P. Kananen
For Appellant

EXAMINER'S ANSWER

This is in response to the Administrative Remand by the Patent Board of Appeals and Interferences filed June 8, 2010, and in response to the Appeal Brief filed November 13, 2008 appealing from the Office action mailed April 2, 2008.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1, 3, 4 and 9-38 are pending and rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17, 19, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim(s) recites/recite the following means (or step) plus function limitation:

Claim 17: information processing means for establishing a loan when a payment amount exceeds a monetary value of electronic money, said payment amount being a purchase price of a commodity;

means for determining if an identification code for said portable electronic device is listed on a negative list, a presence of said identification code on said negative list identifying said portable electronic device as a disabled device and an absence of said identification code from said negative list identifying said portable electronic device as an enabled device

Claim 19: information processing means....amount.

Claim 21: means for calculating....loan.

Claim 22: means for prohibiting....limit.

This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special

purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function:

Specification 12-13, 24-25

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. Claim 17 includes limitation for “means for establishing.....commodity”; “means for determining....device”. Claim 19 includes a limitation for “processing means....amount”. Claim 21 includes a limitation for “means for calculating...loan”. Claim 22 includes a limitation for “means for prohibiting...limit”. The Specification does not set forth any software instructions or algorithms for performing these respective functions. As such, the Appellants have failed to adequately describe sufficient structure for performing the functions claimed.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,679,938	Templeton et al.	10-1997
JP362264364A	Kamimura et al.	11-1987
JP11161832A	PASU JAPAN	06-1999
GB 2,303,956	Nonaka	03-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17, 19, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim(s) recites/recite the following means (or step) plus function limitation:

Claim 17: information processing means for establishing a loan when a payment amount exceeds a monetary value of electronic money, said payment amount being a purchase price of a commodity;

means for determining if an identification code for said portable electronic device is listed on a negative list, a presence of said identification code on said negative list identifying said portable electronic device as a disabled device and an absence of said identification code from said negative list identifying said portable electronic device as an enabled device

Claim 19: information processing means....amount.

Claim 21: means for calculating....loan.

Claim 22: means for prohibiting....limit.

This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and

distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function:

Specification 12-13, 24-25

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. Claim 17 includes limitation for "means for establishing.....commodity"; "means for determining....device". Claim 19 includes a limitation for "processing means....amount". Claim 21 includes a limitation for "means for calculating...loan". Claim 22 includes a limitation for "means for prohibiting...limit". The Specification does not set forth any software instructions or algorithms for performing these respective functions. As such, the Appellants have failed to adequately describe sufficient structure for performing the functions claimed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 9-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al. (GB 2,303,956) (hereinafter Nonaka) in view of Kamimura et al and/or PASA JAPAN and Templeton et al (US Patent No. 5,679,938).

Nonaka teaches a system and method for enabling a user of an IC card 1 to access an electronic purse 2 to make payment of a purchased item. Funds data are recorded in the electronic purse 2 and in a storage 34 located in a data center 3 (see at least the abstract, Figures 1-13, and pages 1-53, but in particular the locations cited below):. . In so doing, Nonaka discloses:

An electronic-money settlement method comprising the steps of:
recording, in a management center, information on a deposited amount of money, said information being stored in the form of electronic money representing a monetary value; and
recording, in said management center, information on a loan made to the user of the portable electronic device or IC card up to a predetermined limit (Figure 2a and 2b and 5 and 10 show the format of the data storage in the electronic purse 2). Loan information is also stored in personal information storage 34 of the management center 3.

Specifically, Nonaka states:

"If the user selects having loan on the electronic purse input unit 22, in the step S122, the charge is added to the sales storage 33 in the center 3 in a step S123, the sum of the loan is stored in the loan storage 61 shown in Fig. 2 and the loaned date is stored in the loaned date storage 62 shown in Fig. 2 respectively in the personal information storage 34 in a step S124. In this case, the total charge is processed as the sum of the loan."

Nonaka states that sum information storage 14 of the IC card 1 stores available card balance which the IC card user may use. Specifically, Nonaka states “The balance stored in the sum information storage 14 of the IC card 1 is read by the card reader/writer 84 and is compared with the charge of this service by the processor 85 in a step S415...”. See page 30, line 14 to page 31, line 6. Thus, the IC card of Nonaka clearly includes a processor 12 and a storage 14 for holding or storing information related to available funds in the IC card 1.

The appellant agrees that Nonaka teaches an electronic purse loan system wherein loan data is stored in a personal storage 34 in a data center 3 and cites Nonaka at page 19, line 23 to page 20, line 5, thus meeting applicant’s claimed limitation of “recording in the management center, information on a loan made to a user of a portable electronic device up to a predetermined limit when a payment amount exceeds the remaining amount of the electronic money stored in the portable electronic device. The appellant argues that the same information is not stored in the portable device as required in their independent claim 1.

The only difference between the claimed invention and the teachings of Nonaka as argued by the appellant is that Nonaka fails to teach or suggest information on a loan is recorded in the IC card.

Kamimura et al and PASA JAPAN both disclose a system and method for providing a loan to a client using a portable IC card. The loan information is recorded in the IC card. See the references.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kamimura et al or PASU JAPAN in the system of

Nonaka in order to allow storage of loan information in the IC card thereby providing instant loan data to a customer whenever desired.

Nonaka teaches several conditions for recording information in the electronic purse and in the management center. See also pages 12-13 of Nonaka. Recording information at the management center based on conditions such as “when a payment amount exceeds the remaining amount of the electronic money stored in said portable electronic device” is only one of a multitude of possible conditions that would have been left to the users/owners described by Nonaka since such would not affect the functioning of the system of Nonaka and Kamimura et al and/or PASU JAPAN. Doing so would have enabled preferred usability of the system of Nonaka as all the claimed functionalities are enabled by the system of Nonaka.

As per the claimed limitation of “wherein said management center calculates interest on the loan at a predetermined frequency and uses the calculation result to update the information on the loan”, the appellant argues that such a feature is not present in Nonaka. In response, whether or not Nonaka states calculating interest on a loan, the applicant’s representative argument that Nonaka fails to disclose, teach or suggest a management center that calculates interest on a loan is not convincing because Nonaka clearly teaches a management center providing a loan to a customer and recording the loan data at both the management center and the electronic purser. See page 1, first paragraph, page 14, third paragraph and page 20 of Nonaka. It noted that loans are usually provided wherein the loan provider’s intention is to charge interest on the loan amount so that a profit is made because of the risk involving in borrowing the loan amount and also because of administrative costs/functions. Thus, charging interest on the loan amount would have been obvious to one of ordinary skill in the art to do in

the combined system noted above. Furthermore, Nonaka discloses storing all information regarding loan data and financial data on both the remote computer of management center and the electronic purse 2. Kamimura et al and/or PASU JAPAN teach recording loan information on an IC card. Thus storing the interest data on both the management center and the portable device would have been obvious to do in Nonaka when modified by Kamimura or PASU JAPAN so as to always make a borrower's information always available to that particular borrower.

Regarding the limitations of:

“determining if an identification code for a portable electronic device is listed on a negative list, a presence of said identification code on said negative list identifying said portable electronic device as a disabled device and an absence of said identification code from said negative list identifying said portable electronic device as an enabled device; “,

The combination of Nonaka, Kamimura et al and/or PASA JAPAN does not explicitly recite such a limitation. However, such a limitation would have been obvious to one of ordinary skill in the art at the time the invention was made so that the central computer or data management center is aware of which accounts or files are delinquent or outstanding. Moreover, Templeton et al disclose a system and method for authorizing a transaction involving the payment of a check issued by a customer. In so doing, Templeton et al disclose maintaining a history or record of their customers, a negative file containing delinquent customers or accounts related to bad check data of the related customer and a positive file containing good check data of related customers. See column 13, lines 35-67 and column 12, lines 51-65 of Templeton et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Templeton et al into the combination of Nonaka, Kamimura et al and/or PASA JAPAN in order to classify negative accounts from positive accounts so as to enable or disable a user's portable electronic device thereby alerting a holder of an electronic device to make the appropriate payment so that the portable electronic device can be enabled.

As per claim 3, an electronic-money settlement method according to claim 1, determining when the loan exceeds a predetermined limit is illustrated in figure 4, element S211 of Nonaka. Nonaka teaches determining upper limit of a customer's loan. Nonaka states "If the user's loan exceeds the upper limit in the step S311, a message showing his/her loan exceeds the upper limit is displayed on the display 21 of the electronic purse terminal 2 in the step S314 and his/her IC card is ejected from the electronic purse terminal 2 by the card controller 23 in the step S319". The management center prohibiting the use of the electronic money by the portable electronic device (S2111) would have been obvious to one of ordinary skill in the art to do because the user would have exceeded the user's limit and the user's allowable funds had been exhausted thus preventing further debts to be owed by the user.

As per claim 4, an electronic-money settlement method according to claim 1, wherein said management center updates a record of the remaining amount of the electronic money stored in said portable electronic device when being instructed to store electronic money in said portable electronic device, and updates the remaining amount of the electronic money stored in

said portable electronic device is taught and discussed throughout Nonaka. Doing so, when being accessed by said portable electronic device so that priority is given to liquidation of the loan is not explicitly taught by Nonaka as modified above. Doing so would have enabled preferred usability of the system of Nonaka and Kamimura et al and/or PASU JAPAN as all the claimed functionalities are enabled by the system of Nonaka. Doing so, when being accessed by said portable electronic device so that priority is given to liquidation of the loan (S226) would have been obvious to do in the system of Nonaka and Kamimura et al and/or PASU JAPAN in order to reduce the debts of the owners of the system of Nonaka.

As per claims 9 and 17, Nonaka discloses an electronic money settlement method comprising the steps of:

loading electronic money from a portable electronic device into an information processing apparatus, said electronic money having a monetary value;

establishing a loan when a payment amount exceeds said monetary value of said electronic money, said payment amount being a purchase price of a commodity. As per these limitations, appellant is directed to page 13, first paragraph, page 14, third paragraph and page 20, lines 1-5 of Nonaka..

Nonaka does not explicitly state recording said loan in said portable electronic device.

Kamimura et al and PASA JAPAN both disclose a system and method for providing a loan to a client using a portable IC card. The loan information is recorded in the IC card. See the references.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kamimura et al or PASU JAPAN in the system of

Nonaka in order to allow storage of loan information in the IC card thereby providing instant loan data to a customer whenever desired.

Regarding the newly added limitations of:

“determining if an identification code for a portable electronic device is listed on a negative list, a presence of said identification code on said negative list identifying said portable electronic device as a disabled device and an absence of said identification code from said negative list identifying said portable electronic device as an enabled device; “,

The combination of Nonaka, Kamimura et al and/or PASA JAPAN does not explicitly recite such a limitation. However, such a limitation would have been obvious to one of ordinary skill in the art at the time the invention was made so that the central computer or data management center is aware of which accounts or files are delinquent or outstanding. Moreover, Templeton et al disclose a system and method for authorizing a transaction involving the payment of a check issued by a customer. In so doing, Templeton et al disclose maintaining a history or record of their customers, a negative file containing delinquent customers or accounts related to bad check data of the related customer and a positive file containing good check data of related customers. See column 13, lines 35-67 and column 12, lines 51-65 of Templeton et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Templeton et al into the combination of Nonaka, Kamimura et al and/or PASA JAPAN in order to classify negative accounts from positive accounts so as to enable or disable a user's portable electronic device thereby alerting a holder of

an electronic device to make the appropriate payment so that the portable electronic device can be enabled.

As per claims 10 and 20, see page 20, lines 1—5 and page 26, first paragraph and page 25, last paragraph of Nonaka.

As per claims 11-13, 19, 21, see page 17, second paragraph to page 18, first paragraph of Nonaka.

As per claims 14 and 23, it is noted that each time a payment or a purchase is made, such a transaction is recorded and therefore this limitation is interpreted as a history of use of the portable electronic device.

As per claims 15 and 22, Nonaka discloses prohibiting the use of the electronic money by the portable electronic device when the loan exceeds a predetermined limit. See page 25, lines 1-6 and page 26, third paragraph of Nonaka.

As per claim 16, inducing power into the portable electronic device is inherent in the portable device of Nonaka in order for the device to function.

As per claims 24-38, these claims recite well known and/or obvious functions that would have been performed by a data card center or card issuers or service card providers. If the loan amount in a portable device exceeds a predetermined limit, then disabling the portable device, recording such in a negative file and prohibiting usage of the portable device would have been obvious to one of ordinary skill in the art to do in order to force the customer to bring their account to a satisfactory limit or positive status or to make the appropriate payment. Once such

is done then allowing usage of the card, changing the status of the portable device and enabling usage of the portable device would have been obvious to one of ordinary skill in the art as such is an obvious measure of doing business in order to prevent abuse and to prevent issuers from further losses because of nonpayment by the holder of the portable devices.

(10) Response to Argument

Appellant argues that Nonaka fails to teach or suggest an absence of an ID number from the storage 60 as identifying an ID card 1 as an enabled device.

In response, Nonaka discloses an electronic purse having a memory in communication with a data center having a memory storage for communicating with a plurality of electronic purses and also for storing data and loan status for the plurality of electronic purses.. Thus, a status of each loan associated with each electronic purse must be kept as an updated status for the borrower and the lender. In regard to the ID number, it is noted that Nonaka does not provide this obvious detail. As such, it would have been apparent to one of ordinary skill in the art at the time of the invention that each borrower associated with an electronic purse must have a unique identification so that for easy data storage and retrieval in/from the data center and also to differentiate one borrower from another borrower. Thus, if a borrower fails to make timely payment, that borrower's loan status associated with his/her identification would have been in a negative list, thus rendering the device inoperative or disabled. Likewise, if a borrower continues to make timely payments, his/her status would be in a positive list, rendering the device to be enabled. This is similar to a simple credit/debit card. If the user's status is negative or if the user does not make timely payment or if the status is delinquent, the user will not be able to use the card because the lender or card issuer would render the card inoperative or the

card issuer would disable the card. Thus, the appellant's argument is not convincing. Furthermore, the Examiner had relied on the teachings of PASA JAPAN and Kamimura et al to denote the storing of loan data into a portable device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kamimura et al or PASU JAPAN in the system of Nonaka in order to allow storage of loan information in the IC card thereby providing instant loan data to a customer whenever desired.

Appellant then argues that Nonaka fails to disclose, teach or suggest the step of recording, in said enabled device and said management center, information on a loan made to the user of said enabled device up to a predetermined limit when a payment amount exceeds the remaining amount of the electronic money stored in said enabled device.

In response, both Kamimura et al and PASA JAPAN disclose recording data on the portable device and at a remote center. Nonaka teaches several conditions for recording information in the electronic purse and in the management center. See also pages 12-13 of Nonaka. Recording information at the management center based on conditions such as "when a payment amount exceeds the remaining amount of the electronic money stored in said portable electronic device" is only one of a multitude of possible conditions that would have been left to the users/owners described by Nonaka since such would not affect the functioning of the system of Nonaka and Kamimura et al and/or PASU JAPAN. Doing so would have enabled preferred usability of the system of Nonaka as all the claimed functionalities are enabled by the system of Nonaka.

Appellant then argues that Nonaka fails to disclose, teach or suggest a method wherein said management center calculates interest on the loan at a predetermined frequency, and uses the calculation result to update said information on the loan.

In response, whether or not the combined teaching fails to show this limitation, it is well known in the art that lenders usually lend money or funds at a particular interest rate for a particular limit. Credit card issuers also charge interest on incurred charges. Both the lenders and the credit card issuers usually calculate interest periodically or at a fixed time or daily on loan amount or incurred charges. The interest charges are usually updated and sent to the borrower or credit card user as part of their monthly statements. Loans are usually provided wherein the loan provider's intention is to charge interest on the loan amount so that a profit is made because of the risk involving in borrowing the loan amount and also because of administrative costs/functions. Thus, charging interest on the loan amount would have been obvious to one of ordinary skill in the art to do in the combined system noted above. Furthermore, Nonaka discloses storing all information regarding loan data and financial data on both the remote computer of management center and the electronic purse 2. Kamimura et al and/or PASU JAPAN KK teach recording loan information on an IC card. Thus storing the interest data on both the management center and the portable device would have been obvious to do in Nonaka when modified by Kamimura or PASU JAPAN so as to always make a borrower's information always available to that particular borrower.

Appellant then argues that Templeton fails to teach or suggest “bad check data” as including an identification code for the check 65.

In response most checks contain a check number, routing number for identifying the particular check. Templeton et al are directed to a system and method for authorizing the payment made by a customer using a check during a particular transaction. See the abstract. Templeton further teaches storing the status of checks of a customer, and maintaining a history of each check for each particular customer. See column 13, lines 35-67 and column 12, lines 51-65 of Templeton. Customers data and check status are stored in positive files and or negative files. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Templeton into the combination of Nonaka, Kamimura et al and/or PASA JAPAN in order to classify negative accounts from positive accounts so as to enable or disable a user's portable electronic device thereby alerting a holder of an electronic device to make the appropriate payment so that the portable electronic device can be enabled.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/Frantzy Poinvil/

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

/Wynn W. Coggins/

Director, TC 3600

Conferees:

Alexander Kalinowski/AK/

Supervisory Patent Examiner, Art Unit 3691

Vincent Millin/vm/

Appeals Conference Specialist